## Application for Fence Exemption 4 Halbadier Place

| Date: | January 21, 2010 |
| :--- | :--- |
| To: | Etobicoke York Community Council |
| From: | Curtis Sealock, Manager, Municipal Licensing and Standards |
| Wards: | Ward 3, Etobicoke Centre |
| Reference <br> Number: | $09-172269$ FEN 00 IR |

## SUMMARY

This staff report is in response to an application for a Fence Exemption submitted by the property owner to erect a close board wooden fence with a lattice top, averaging 2.38 metres high, to replace the existing chain link fence and a hedge at the south side of the property at 4 Habadier Place (Attachments 2 and 3), for which the Etobicoke York Community Council has delegated authority from City Council to make a final decision.

## RECOMMENDATIONS

Municipal Licensing and Standards recommend that Etobicoke York Community Council refuse the application, as the proposed fence does not comply with the provisions of Toronto Municipal Code Chapter 447, Fences.

## FINANCIAL IMPACT

There are no financial implications resulting from the adoption of this report.

## ISSUE BACKGROUND

The property is a single residential property located at a corner lot with both the west frontage and south flankage abutting Halbadier Place at the approach to the cul-de-sac (Attachment 1).

There is an existing swimming pool at the rear yard which is provided with a fence enclosure that meets the safety requirements of a swimming pool enclosure under the former Etobicoke Municipal Code. The section of the pool enclosure on the south side is made up of a combination of close board wooden fence on the inside, a chain link fence in the middle and a 3.0 metres high hedge on the outside (Attachments 4 and 6).

As the hedge is allegedly too high for maintenance (Attachments 2, 3, 4 and 6) and it is partly encroaching on the Halbadier Place road allowance, the owner is planning to remove it completely together with the existing fences on the south side and replace this section of the pool enclosure (together with the portion on the east side abutting 120 Meadowbank Road) with a new close board wooden fence with a lattice top. While the new fence will only be 1.95 metres high measured to the pool deck, it is 2.80 metres high measured from the travelled portion of the sidewalk (Attachment 5), and this is equivalent to an average height of 2.38 metres.

The owner has provided a letter from the neighbour at 120 Meadowbank Road who expressed that they have no objection to the proposed fence construction.

## COMMENTS

The fence height is taken as any point along the length of the fence from the average grade level measured perpendicular to and one metre away on either side of the fence according to section 447-2B(1) of Chapter 447 of Toronto Municipal Code, Fences. In effect, the average height of the proposed fence is 2.38 metres.

Being on a corner lot on the side with the longer property line abutting a street (Attachments 1 and 6), the proposed fence on the south side is located on the flankage yard as defined in the By-law. The maximum height of a fence at the flankage yard of a single residential property within 2.4 metres of side lot line and within 2.4 metres of any driveway is 2.0 metres under Table 1 of the said Chapter. Section 447-2C(1) further requires any fences within 2.4 metres from a driveway to be of open construction for at least 2.4 metres from the lot line at which the driveway begins so as not to obstruct the view of the boulevard or highway. The proposal for this Fence Exemption request will result in a close board wooden fence, instead of one of open construction, within 2.4 metres from the driveway, and having an average height of 2.38 metres with the lattice top, that exceeds the maximum height permitted by 38 centimetres ( 15 inches).

Whilst the proposed fence will still be able to achieve the standards for minimum traffic sight line clearance ( 2.4 metres), taking into consideration of the open space in the boulevard between the fence and the sidewalk, the fence is in violation of the Fence Bylaw and as such, Municipal Licensing and Standards is recommending refusal of the application.

It was also noted that a shrub planted on top of a low retaining wall on the west side of the driveway beside the entrance to the dwelling may create sight line obstruction to traffic (Attachment 6). Subject to investigation by Transportation Services, it may also be encroaching on the Halbadier Place road allowance.

Should the Etobicoke York Community Council decide to grant the fence exemption, the owner must comply with the following conditions:

1. The new fence to comply with all the safety requirements for a pool enclosure in accordance with Toronto Municipal Code, Chapter 447, Fences.
2. The owner to remove the shrub that poses an obstruction to traffic sight line by May 1, 2010 and comply with the requirements of Transportation Services (Right of Way Management) for any encroachments on the Halbadier Place road allowance.
3. The owner to obtain from Toronto Building Division the necessary permit to alter the existing pool enclosure.

## CONTACT

Chip Au, Supervisor

Etobicoke York District
Municipal Licensing and Standards
Tel: 416-394-2533 Fax: 416-394-2904
E-mail: cau2@toronto.ca

## SIGNATURE

Curtis Sealock, District Manager<br>Etobicoke York District<br>Municipal Licensing and Standards

## ATTACHMENTS

Attachment 1: Aerial Photo and Property Survey
Attachment 2: Fence Exemption Request Letter
Attachment 3: Photos submitted by owner for the Fence Exemption Request
Attachment 4: Site Plan showing the Proposed Fence
Attachment 5: Section and Elevation of the Proposed Fence
Attachment 6: Photos showing the Existing Fence/Hedge on the South Flankage


## Attachment 1: Aerial Photo and Property Survey

## City of Toronto

Ref: Request fence height deviation (By-law Chapter 447-2 Subsection B(2)) and
Building Permit request for partial fence replacement for the 4 Halbadier Place (property with a pool)

## Dear Madam/Sir

In order to improve security and a neighborhood look would you please accept deviation from by-law Chapter 447-2 Subsection $B(2)$ where maximum fence height for flankage yard is limited to 2.0 m . Actual fence height would be 1.9 m looking from the top of the support wall. From the outside a 30 cm support wall and 60 cm slope would be used to support the back yard.

Current section of the property has two fences. Original property fence is embedded in 10 ft hedge. On the inside, there is a second wooden fence. Hedge is overgrown and deteriorating every year( see pictures 1 and 2). Hedge maintenance presents safety challenge (standing on top of the ladder and leaning with trimmer in hand).

The pool patio level is 90 cm above the sidewalk level. Goal is to replace existing unstable soil slope supported by wood boards (Picture 2 and 3 ), rotten railway tiles and hedge roots with 30 degrees slope and 30 cm high block wall. On the top of the block wall a 190 cm wood fence (447-3 Section E) would be erected. Any lower fence than 180 cm would present a safety concern and would not be compliant according to By-law 447-3 Section E. Proposed fence design will match the pattern of the existing fence on lot 17 and 19 with the variation of missing middle board in order to improve security.
e (120 Meadowbank Rd. , owners of the lot 17) verbally agreed with brick wall and fence design and are willing to participate in build of the section between our two properties.

If you have any questions please don't hesitate to contact me during business hours at ، or during evening hours at

## Attachment 2: Fence Exemption Request



Figure 1


Figure 2


Figure 3

## Attachment 3: Photos submitted by owner for the Fence Exemption Request




Attachment 4: Site Plan showing the Proposed Fence


Attachment 5: Section and Elevation of Proposed Fence


Attachment 6: Photos Showing the Existing Fence/Hedge on the south Flankage

